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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re Marriage of WYLMINA E. and TIMOTHY P. LOUMENA.	H033777 (Santa Clara County Super. Ct. No. FL127695)
WYLMINA E. HETTINGA, Appellant, v. TIMOTHY P. LOUMENA, Respondent.	

Appellant Wylmina E. Hettinga appeals from the superior court's November 2008 order requiring her to pay $7,750 in back child support for a 10-month period in 2007. She claims that the court's calculation was based on findings regarding respondent Timothy P. Loumena's income and his child care expenses that are not supported by substantial evidence. We affirm the order.

I. Background

On November 1, 2006, the superior court ordered appellant to pay respondent $283 per month in child support. This order was based on findings which included a finding that respondent's child support add-ons for childcare were $606 per month.

In April 2007, respondent filed a motion for modification of the November 2006 child support order. The parties stipulated that this motion would relate back to February 2007. The appellant's appendix submitted by appellant does not contain respondent's income and expense declaration that was attached to his motion.[1]

On November 21, 2007, the superior court issued an order making findings as to the incomes for child support purposes of appellant and respondent during discrete periods from February 2007 through October 2007.[2] These findings were to be used "in a statutory computer calculation of child-support."

In January 2008, respondent submitted proposed "DissoMaster" calculations for the discrete periods from February 2007 through October 2007 that were based on respondent having $1,580 in "Child support add-ons" for February through June 2007 and $1,780 in "Child support add-ons" for July through October 2007. Appellant's trial counsel challenged the increase in respondent's child support add-ons used in these proposed DissoMaster calculations. She asserted that respondent's childcare costs had not changed since the court's November 2006 order found respondent's childcare costs to be $606 per month.

On November 21, 2008, the superior court filed an order "concerning proper sums of child support due in this matter . . . ." The court made specific findings as to the guideline amounts of child support that were due from appellant to respondent during each of those discrete periods in 2007 based upon its November 2007 income findings. The court found that appellant had paid only $2,830 of the $10,580 due from her to respondent, and it ordered appellant to pay the remaining amount due of $7,750 to

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[1] Appellant has included in her appendix an October 2008 income and expense declaration by respondent in which he stated that he paid $1,400 per month for childcare and an additional $427 per month for the children's health care expenses not covered by insurance and travel expenses for visitation.

[2] Because the incomes varied during this period, different calculations were made for discrete portions of this period.

respondent within 45 days of the order. Appellant filed a timely notice of appeal from the trial court's November 21, 2008 order.

II. Analysis

Appellant contends that respondent "dishonestly more than doubled his child care costs" when those costs had not changed. She claims that the evidence does not support the superior court's findings regarding respondent's income for child support purposes or the amount of his child care expenses.

"'A judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error must be affirmatively shown.'" (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) "An appellant has the burden to provide a record sufficient to support its claim of error. [Citation.] Absent an indication in the record that an error occurred, we must presume that there was no error." (*Bullock v. Philip Morris USA, Inc.* (2008) 159 Cal.App.4th 655, 678.)

The record that appellant has provided on appeal does not contain any of the evidence upon which the superior court's income and expense findings were based. Consequently, we must presume that the superior court's findings are supported by the evidence. It follows that appellant's contentions cannot succeed.

III. Disposition

The order is affirmed.

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Mihara, Acting P. J.

WE CONCUR:

_____
McAdams, J.

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Duffy, J.